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### **Update on Status of the Novel Foods Proposal - 2nd Reading Phase**

**Report Categories:**

FAIRS Subject Report

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**Report Highlights:**

This report gives an overview of the current status of the novel foods proposal. On March 24, 2010, the Council position on the European Parliament (EP) 1st reading report was sent to the EP together with the Commission's opinion on the amendments suggested by the Council. On July 5, 2010, the EP will vote in plenary on the 2nd reading recommendation.

## **General Information:**

### **UPDATE ON STATUS OF NOVEL FOODS PROPOSAL – COUNCIL POSITION**

#### **Background**

On January 15, 2008, the European Commission submitted a proposal for a new regulation on novel foods (see [GAIN report E48014](#) for detailed information). The proposal has to be adopted under the co-decision procedure (renamed “ordinary legislative procedure” under the Lisbon Treaty) which means that the European Parliament (EP) and the Council act on equal footing: the EP cannot adopt legislation without the agreement of the Council and vice versa. The co-decision procedure provides for three readings (two readings and a conciliation procedure) with the possibility to conclude at each reading. The co-decision procedure does not set out any time limits in the first reading phase. The EP has 3 months (may be extended by one month) to vote on the Council’s position in second reading. The time limits set for the second reading phase of the procedure become applicable **upon receipt** of the Council’s position by the EP.

#### **First Reading Phase**

In March 2009, the [EP adopted its first reading opinion](#) on the Commission’s proposal. In its first reading report, the EP proposed to exclude food from cloned animals and their offspring from the novel foods regulation and called on the Commission to propose separate legislation which would ban foods from cloned animals. In June 2009, the Council reached political agreement on a common position on the amendments proposed by the EP. While the EP wants a broad ban on animal cloning, the Council wants to include foods from cloned animals with their offspring in the novel foods regulation. The Commission does not share the Council’s view on offspring and only wants foods from clones in the novel foods regulation. The Council does agree with the EP however that the Commission should table separate legislation on animal cloning and all its aspects. Until the Commission tables such a proposal, the novel foods regulation should cover foods from cloned animals to avoid a legal vacuum. After its formal adoption, the common position goes to the EP for a second reading. At the end of 2009, the EP requested the Council not to adopt its common position until the appointment of a new Commission. The new Commissioner for Health and Consumers, John Dalli, has indicated that the Commission would publish a report on cloning by the end of 2010.

#### **Where Do We Stand Now?**

The [Council position](#) on the EP’s first reading report was adopted as an “A” point (no discussion) at the March 15, 2010 Environment Council. The Council position together with a [statement explaining why the Council does not accept all the amendments](#) proposed by the EP was forwarded to the EP plenary on March 24, 2010 and triggered the start of the second reading phase timelines. On March 24, 2010, the [Commission opinion](#) was sent in tandem with the Council position to the EP. The EP has three months (may be extended by one month) to take action and has three possibilities of action:

1) accept the Council position without amendments, 2) reject the Council position (by absolute majority vote) or 3) propose amendments to the Council position. On March 29, 2010, the rapporteur for the EP ENVI Committee submitted her [draft second reading recommendation](#) on the Council position. The second reading recommendation proposes amendments to the Council position and mainly repeats the EP first reading position, i.e. a ban on foods from cloned animals and offspring.

## What is in the Council Position?

The [statement of the Council's reasons](#) (document that accompanies the Council position) explaining why it does not accept some of the EP amendments to the novel foods proposal lists the main modifications introduced by the Council with reference to the EP amendments, including:

- **Food produced from animal obtained by non-traditional breeding techniques and their offspring:** the Council agreed that foods produced from animal obtained by non-traditional breeding techniques, such as cloning, and their offspring shall fall within the scope of the novel foods regulation. At the same time, the Council is of the opinion that this regulation cannot adequately manage all aspects of cloning and that the Commission should study the subject further. The Council considered that it was necessary to keep food produced from cloned animals within the scope of the proposed regulation until any specific legislation has been proposed by the Commission and adopted.
- **Nanomaterials:** the Council highlights the need for an internationally agreed definition of nanomaterials. If a different definition is agreed at international level, the adaptation of the novel foods regulation would be done through the ordinary legislative procedure (Commission opposes and considers this should be adopted through “delegated acts”)
- **Authorization of novel foods:** the Council clarifies that ethical, environmental, animal welfare and the precautionary principle should be taken into account in the authorization of novel foods.
- **Labeling:** the systematic labeling of all novel foods is disproportionate and would create an administrative burden. Systematic labeling of ingredients in the form of nanomaterials is excessive, there is a requirement to consider specific labeling requirements on a case-by-case basis.

A [statement by 24 Member States](#) [1] concerning all aspects of cloning techniques of animals was published as an addendum to the Council position. In their statement, the 24 Member States agree that food produced from animals obtained by using a cloning technique and from their offspring should be regulated by specific legislation. Consequently, such foods should be excluded from the scope of the novel foods regulation as soon as specific legislation has become applicable. In the meantime, and in order to avoid any legislative gaps, those foods should be covered by the scope of the novel foods regulation. The 24 Member States agree to request the Commission to submit to the Council and the European Parliament a proposal for specific legislation concerning all aspects of cloning techniques.

The United Kingdom and the Netherlands do not support the statement tabled by the 24 Member States emphasizing that legislation should be evidence-based and that legislative solutions should not

be decided before completing detailed assessments. The U.K. and the Netherlands recognize that specific legislation may be needed but believe it is premature to call for wide ranging legislation until the outcome of the Commission report is known.

Greece abstained from the vote on the Council position and considers that food from cloned animals should be prohibited.

### **What happens next?**

In the second reading phase of the co-decision procedure, the EP has three months (may be extended by one month) to adopt a recommendation (by absolute majority) on the Council position which it then sends to the Commission and the Council.

Timetable:

- May 4, 2010: in-committee vote on the EP draft second reading report
- July 5, 2010: EP plenary vote.

The Treaty specifically requires the Commission to deliver an opinion on the EP amendments and it is this opinion that will determine the type of vote necessary in the Council. If the Commission gives a negative opinion on at least one amendment, the Council will need a unanimous vote to accept the EP's overall position. Once the Commission delivers its opinion to the Council, the Council has three months (may be extended by one month) to either accept or reject the EP position. If the Council rejects the EP position, a conciliatory committee must be set up within six weeks (may be extended by two weeks) from the time of the Council's second reading vote. The conciliation committee brings together members of the Council and an equal number of EP representatives as well as the Commissioner responsible. Considering the diverging views of the three institutions on animal cloning and discussions on how the novel foods proposal should be adapted to the Treaty of Lisbon, i.e. which provisions should confer implementing powers to the Commission it is more than likely that the proposal will go into conciliation.

### **Related Reports:**

- [The Treaty of Lisbon – Consequences for EU decision-making procedures](#)
- [European Parliament report on novel foods proposal](#)
- [Proposal for a novel foods framework regulation](#)

<sup>[1]</sup> Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.